

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

INA STEINER, DAVID STEINER, and  
STEINER ASSOCIATES, LLC,

Plaintiffs,

v.

EBAY INC., ET AL.,

Defendants.

CIVIL ACTION NO.: 1:21-CV-11181-DPW

**MOTION TO DISMISS BY DEFENDANT BRIAN GILBERT**

Defendant Brian Gilbert moves to dismiss ten of the twelve claims brought against him by Ina and David Steiner, and Steiner Associates, LLC (collectively, “Plaintiffs”). These ten claims—Count Two (stalking); Count Three (civil RICO); Count Four (Massachusetts Civil Rights Act); Count Five (defamation); Count Six (trespassing); Count Seven (false imprisonment); Count Eight (vandalism); Count Ten (M.G.L. Ch. 93A, § 11); Count Eleven (tortious interference with business relations); and Count Twelve (ratification)—all fail as a matter of law as pled against Gilbert and must be dismissed pursuant to Rule 12(b)(6).

As a general matter, the Complaint indiscriminately brings all twelve claims against “all Defendants,” despite a dearth of allegations concerning Gilbert’s role in most of the claims alleged. The Complaint’s shotgun approach to pleading fails to put Gilbert on notice as to how he—as opposed to his co-defendants—is purportedly liable under each cause of action, and therefore fails to satisfy the basic requirement of notice pleading under Rule 8(a). With respect to the specific acts alleged to have been committed by Gilbert, the Complaint fails to establish

the elements of nearly all the claims Plaintiffs have asserted against him. In support of this Motion, Gilbert relies on his Memorandum of Law filed concurrently herewith.

WHEREFORE, because Plaintiffs have failed to state a claim as a matter of law against Gilbert on ten of their twelve causes of action, Defendant Gilbert requests that the Court dismiss those claims against Gilbert with prejudice pursuant to Rule 12(b)(6).

Dated: October 29, 2021

*/s/ Mark R. Conrad*

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Dated: October 29, 2021

*/s/ Douglas Brooks*

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**LOCAL RULE 7.1(a) CERTIFICATE OF COMPLIANCE**

I hereby certify that I conferred with counsel for Plaintiffs in a good-faith effort to resolve or narrow the issues raised by this Motion pursuant to Local Rule 7.1(a).

*/s/ Mark R. Conrad*

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Mark R. Conrad

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-participants on October 29, 2021.

*/s/ Mark R. Conrad*

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Mark R. Conrad